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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,051	02/20/2004	Steven M. Whipple	10526-001	6771

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BEUSSE BROWNLEE WOLTER MORA & MAIRE, P. A.
390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO, FL 32801

EXAMINER	
SANDY, ROBERT JOHN	

ART UNIT	PAPER NUMBER
3677	

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/783,051	WHIPPLE, STEVEN M.	
	Examiner	Art Unit	
	Robert J. Sandy	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 March 2005 (cert. of mail date)*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *31 March 2005* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This final Office action is responsive to the reply filed 28 March 2005 (cert. of mail date).

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feature pertaining to the protrusions comprising "a spine" (claim 2) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to teach how to make and/or use the invention, i.e., failing to provide an enabling disclosure

> The following is a quotation of 37 CFR 1.71(a)-(c):
> (a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.
>
> (b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.
>
> (c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

The specification is objected to under 37 CFR 1.71 because it fails to provide an enabling disclosure teaching how to make the claimed invention, as to the following: the specification fails to provide an enabling disclosure supporting the claimed apparatus to have the features of "a third hole formed therethrough said main body through which at least one of said first end or said second end of said line may be further secured to said main body" (claim 1), "wherein said first hole. said second hole, and said third hole are in a same plane" (claim 4), and "a third receptacle for further securing at least one of said first end or said second end of said line around an outer edge of said third receptacle, wherein said third receptacle is centrally located in a same plane between said first receptacle and said second receptacle within said main body" (claim 13). The written specification and drawings fail to support these features. Therefore, these features are deemed as new matter.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification provides no antecedent basis for "a spine" (claim 2).

Claim Objections

Claim 13 is objected to because of the following informalities: In claim 13, line 2, "said system" should be changed to - - said apparatus - -.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claimed subject matter pertains to the new matter of "a third hole formed therethrough said main body through which at least one of said first end or said second end of

said line may be further secured to said main body" (claim 1), "wherein said first hole. said second hole, and said third hole are in a same plane" (claim 4), and "a third receptacle for further securing at least one of said first end or said second end of said line around an outer edge of said third receptacle, wherein said third receptacle is centrally located in a same plane between said first receptacle and said second receptacle within said main body" (claim 13) which has now enabling support in the original disclosure.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 6, and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, as to the following:

In claim 2, line 2, recitation of "a spine" appears to be misdescriptive according to paragraph [0021] of applicant's written description, where "protrusions" have been alternatively labeled as "spires". Assuming this misdescription, recitation of "protrusions" in the claim is a double inclusion of "spires" since applicant's disclosure has not provided a further description of the structure specific to the "protrusions, or "spires, 101". Therefore, for the purpose of this Office action, claim 2 has been considered to be construed as "*wherein each of said plurality of protrusions* ~~*comprise a spine that*~~ *prevents said line to exit said holes in said first direction.*"

In claims 6 and 7, there is no antecedent basis for "said leverage device."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-7 and 13-15, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Lai et al. (U.S. Patent No. 6,381,816).

Regarding claims 1-7, Lai et al. ('816) discloses a system for securing a first end and a second end of a line wherein said line is placed around an object, said system comprising: a main body (1); a first hole (one of the two release holes 13) formed therethrough said main body through which said first end of said line (2) is inserted; (c) a second hole (other one of the two release holes 13) formed therethrough said main body through which said second end of said line is inserted; (d) a plurality of protrusions (141) within said first hole and said second hole allowing. within said first hole. said first end of said line to enter in a first direction and exit in a second direction and within said second hole allowing said second end of said line to enter in a first direction and exit in a second direction; and a third hole (hole 11) formed therethrough said main body through which at least one of said first end or said second end of said line may be further secured to said main body;

(concerning claim 2) each of said plurality of protrusions prevents said line to exit said holes in said first direction (see col. 3, lines 1-6);

(concerning claim 3) the protrusions (141) are angled within each of said first hole and said second hole to create wider holes at a first end (end 12) where said line is received and narrower holes at a second end (end at wall 151, face 121) where each of said lines exit each of said holes;

(concerning claim 4) the main body is symmetrically shaped having two semi-circular arcs (rounded corners of the retainer), one at each end of said main body and having perpendicular sides (flat sides of the retainer) that intersect a tangent of said arcs wherein said first hole. said second hole, and said third hole are in a same plane;

(concerning claim 5, so far as definite) comprising a leverage device (partition column 15 having hole 16) connected (i.e., integrally connected) to said main body;

(concerning claim 6, so far as definite) the leverage device further comprises a cavity (cavity defined by hole 16) for receiving and holding said main body (i.e., "hole 16 . . . is adapted for mounting ..", col. 3, lines 7-10); and

(concerning claim 7) the leverage device and said main body are a single element.

Regarding claims 13-15, so far as definite and as best understood, Lai et al. ('816) discloses an apparatus having a main body (1) for securing a line (2) securely around an object, said apparatus comprising: a first receptacle (13) for receiving an a first end of said line; a second receptacle (13) for receiving a second end of said line; a plurality of protrusions (141) extending from each-of said first and second receptacles preventing each end of said line from exiting each of said first and second receptacles in a direction each of said line ends enter each of said first and second receptacles; a third receptacle (11) for further securing at least one of said first end or said second end of said line around an outer edge of said third receptacle; and wherein said third receptacle is centrally located in a same plane between said first receptacle and said second receptacle within said main body;

(concerning claim 14, so far as definite) comprising a leverage device (partition column 15 having hole 16) connected (i.e., integrally connected) to said main body; and

(concerning claim 15, so far as definite) the leverage device further comprises a cavity (cavity defined by hole 16) for receiving and holding said main body (i.e., "hole 16 . . . is adapted for mounting ..", col. 3, lines 7-10).

Response to Arguments

Response to Arguments

Applicant's arguments filed in the reply have been fully considered but are considered moot in view of the new grounds of rejection necessitated by applicant's amendment and inclusion of new matter thereof.

The indication of allowable claims 10, 11, and 17-19, indicated in the prior Office action, each have been withdrawn in view of the new grounds of rejection necessitated by applicant's amendment and inclusion of new matter. The indication of allowability to all pending claims shall not be determined in this Office action in view of the issues regarding new matter set forth herein.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 571-272-7073. The examiner can normally be reached at 8:00am – 4:00pm, (EST), M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached at 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ROBERT J. SANDY
PRIMARY EXAMINER